

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rule making related to petitions for rule making and Iowa broadband deployment program and providing an opportunity for public comment

The Economic Development Authority hereby proposes to amend Chapter 197, “Petition for Rule Making,” and rescind Chapter 411, “Iowa Broadband Deployment Program,” and Chapter 412, “Fair Information Practices, Waiver and Variance, and Petition for Rule Making,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 15.106A and 17A.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 17A.7 and 2020 Iowa Acts, House File 2389.

Purpose and Summary

The proposed changes to Chapter 197, regarding petitions for rule making, amend the chapter to remove outdated references and to conform to Iowa Code section 17A.7 as amended by 2020 Iowa Acts, House File 2389.

The authority also proposes to rescind Chapter 411, regarding the Iowa Broadband Deployment Program, and Chapter 412, regarding Iowa Broadband Deployment Governance Board practices. The referenced board was eliminated in 2013, and current broadband programs are administered by the Office of the Chief Information Officer. Additionally, Chapter 412 contains an inconsistency with Iowa Code section 17A.9A as amended by House File 2389 regarding rule waivers.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on April 13, 2021. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 261—197.1(17A) as follows:

261—197.1(17A) Petition for rule making. Any person or state agency may file a petition for rule making with the ~~department~~ authority at the Director’s Office, ~~Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309-1819~~ Iowa Economic Development Authority, 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315, Attn: Legal Counsel. Petitions for rule making may be delivered, mailed, or sent by email or other electronic means reasonably calculated to reach the intended recipient. A petition is deemed filed when it is received by ~~that office~~ the authority. The ~~department~~ authority must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the ~~department~~ authority an extra copy for this purpose. The petition must be typewritten, or legibly handwritten in ink, and must substantially conform to the following form:

BEFORE THE <u>DEPARTMENT OF IOWA ECONOMIC DEVELOPMENT AUTHORITY</u>	
Petition by (Name of Petitioner) for the (adoption, amendment, or repeal) of rules relating to (state subject matter).	} PETITION FOR RULE MAKING

The petition must provide the following information:

1. A statement of the specific rule-making action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment to a rule and, if it is a petition to amend or repeal a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or repealed.
2. A citation to any law deemed relevant to the ~~department’s~~ authority to take the action urged or to the desirability of that action.
3. A brief summary of petitioner’s arguments in support of the action urged in the petition.
4. A brief summary of any data supporting the action urged in the petition.
5. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the proposed action which is the subject of the petition.
6. Any request by petitioner for a meeting provided for by subrule 197.4(1).

197.1(1) The petition must be dated and signed by the petitioner or the petitioner’s representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner’s representative, and a statement indicating the person to whom communications concerning the petition should be directed.

197.1(2) The ~~department~~ authority may deny a petition because it does not substantially conform to the required form.

ITEM 2. Amend rule 261—197.2(17A) as follows:

261—197.2(17A) Briefs. The petitioner may attach a brief to the petition in support of the action urged in the petition. The ~~department~~ authority may request a brief from the petitioner or from any other person concerning the substance of the petition.

ITEM 3. Amend rule 261—197.3(17A) as follows:

261—197.3(17A) Inquiries. Inquiries concerning the status of a petition for rule making may be made to the ~~Director's Office, Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309-1819, Attn: Legal Counsel~~ address indicated in rule 261—197.1(17A).

ITEM 4. Amend rule 261—197.4(17A) as follows:

261—197.4(17A) Department Authority consideration.

197.4(1) *Forwarding of petition and meeting Meeting.* ~~Within five working days after the filing of a petition, the department shall submit a copy of the petition and any accompanying brief to the administrative rules coordinator and to the administrative rules review committee.~~ Upon request by the petitioner in the petition, the ~~department~~ authority shall schedule a brief and informal meeting between the petitioner and ~~a member of the authority staff of the department~~ to discuss the petition. The ~~department~~ authority may request the petitioner to submit additional information or argument concerning the petition. The ~~department~~ authority may also solicit comments from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the ~~department~~ authority by any person.

197.4(2) *Action on petition.* Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the ~~department~~ authority shall, in writing, deny the petition, and notify petitioner of its action and the specific grounds for the denial, or grant the petition and notify petitioner that it has instituted rule-making proceedings on the subject of the petition. Petitioner shall be deemed notified of the denial or grant of the petition on the date when the ~~department~~ authority mails or delivers the required notification to petitioner. The authority shall submit the petition and the disposition of the petition to the administrative rules review committee.

197.4(3) *Denial of petition for nonconformance with form.* Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for ~~the department's~~ rejection of the petition.

ITEM 5. Amend **261—Chapter 197**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 17A.7 ~~as amended by 1998 Iowa Acts, chapter 1202, section 11.~~

ITEM 6. Rescind and reserve **261—Chapter 411**.

ITEM 7. Rescind and reserve **261—Chapter 412**.